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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
TORTURE AND DETENTION**

Written statement* submitted by the International Federation of ACAT, a non-governmental
organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[29 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting
non-governmental organization(s).

Terrorism and torture

In the international context following the 11 September 2001 terrorist attacks in the US, bearing in mind that the Preamble of the Universal Declaration of Human Rights (UDHR) states that :

- "Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind";
- "Member states have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms",

Having regard to Articles 3 and 5 to 11 of the UDHR,

The International Federation of ACAT (Action by Christians for the Abolition of Torture) wishes to draw the attention of the Human Rights Commission to the serious risk of violation of human rights and fundamental freedoms in the form of government and legislative measures that have been taken by a large number of States,

Noting that in several countries there have been public statements legitimising the use of torture in dealing with alleged terrorists in order to prevent terrorist action, FI.ACAT emphasises that :

- torture is expressly prohibited by all the most important international and regional conventions;
- there can be no derogation from this ban, whatever the circumstances and wherever the acts are committed,

Having regard to the statement by 17 Independent Experts of the Commission on Human Rights dated 10 December pointing out that anti-terrorist legislation adopted in a number of countries (notably US, Canada, EU, Great Britain, Germany, France, India, Japan, Nepal, South Africa) is being used as a pretext for security-led policies, FI.ACAT :

- believes that they seriously violate human rights and fundamental freedoms protected by international treaties (in particular, the right to asylum, the rights of any person arrested and detained, the presumption of innocence, certain procedural guarantees, the right to defend oneself, to be assisted by a lawyer, to be brought before a judge, to be judged by a court under common law, not to be subject to discrimination, etc);
- invites, therefore, the relevant mechanisms (Special Rapporteur on torture, working groups on arbitrary detention and extrajudicial executions, the Special Representative on human rights defenders) to be especially vigilant and to encourage them to invite all countries concerned to comply,

In view of the statement by the High Commissioner for human rights on the conditions of detention of the Taliban and Al Qaida prisoners at the American base of Guantanamo in Cuba on 16 January 2002,

FIACAT reiterates that :

- these persons are protected by international treaties on human rights and humanitarian law, in particular the International Covenant on Civil and Political Rights and the Geneva Conventions of 1949;
- in accordance with Article 5 of the third Geneva Convention, the legal status of these persons and their right to be considered prisoners of war can only be established by a proper court,

In view of the small number of States that are party to the Convention against Torture, and the even smaller number of States that have issued statements regarding Articles 21 and 22, recognising the jurisdiction of the Committee against Torture to consider and pass judgement in cases,

Given that, at the same time, there are many cases of torture in those States that have not ratified the above Convention or have not signed it,

FIACAT asks the Human Rights Commission to remind those States that have not yet done so of the absolute necessity to ratify all international and regional instruments in the fight against torture, especially the UN Convention against Torture, to accept the jurisdiction of the Committee regarding Articles 21 and 22, the International Covenant on Civil and Political Rights and the Rome Statute on the setting up of the International Criminal Court.
